



Ext. 1

PATENT  
2001-1078

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Patricia DE JONG et al.

Conf. 9646

Serial No. 09/857,796

Group 1761

Filed June 11, 2001

Examiner K. Hendricks

PREPARATION THAT CONTAINS  
OLIGOSACCHARIDES AND PROBIOTICS

AMENDMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

September 22, 2003

Sir:

In response to the Official Action mailed June 19, 2003, please amend the above-identified application as follows:

(NOTE CAREFULLY: On Friday, September 19, 2003, the Patent Office was closed on account of weather. Therefore, filing on Monday, September 22 is timely and does not require an extension of time.)

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks begin on page 5 of this paper.

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during culturing. As to the content of these particular oligosaccharides, there is no teaching in the specification.

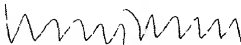
Moreover, the 66% of sucrose and  $\alpha$ -starch in the physiologically functional food product of MASUYAMA et al. is digestible by humans. These digestible saccharides can therefore not properly serve as a substrate for the probiotics in order for these microorganisms to reach the intestines alive, as in the present invention.

As the amended retained claims clearly bring out these distinctions with ample particularity, it is believed that they are all patentable, and reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



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